

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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U.S. DISTRICT COURT E.D.N.Y.

★ SEP 22 2010

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CLARK STREET WINE AND SPIRITS (d/b/a
Michael Towne Wine and Spirits) and 88
SEVENTH AVENUE, INC. (d/b/a Seventh
Avenue Wine and Liquors),

Plaintiffs,

– against –

EMPOROS SYSTEMS CORPORATION,

Defendant.

**MEMORANDUM &
ORDER**

10-CV-1392

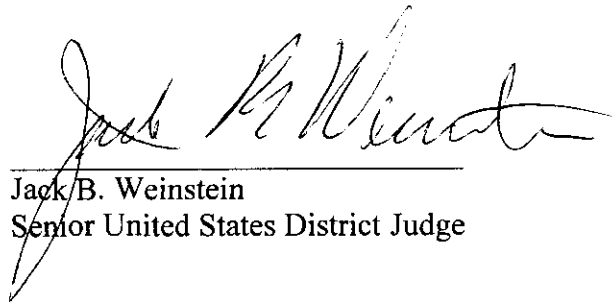
JACK B. WEINSTEIN, Senior United States District Judge:

At the hearing on defendant's Motion to Dismiss Plaintiffs' Amended Complaint pursuant to Federal Rule of Procedure 12(b)(6), scheduled for November 4, 2010, at 10:30, the parties shall be prepared to address the following factual issues:

- (1) The full range of services that defendant provided to plaintiffs, including servicing of the LogMeIn utility;
- (2) Any evidence that a current or former employee of the defendant engaged in fraud;
- (3) Defendant's knowledge of the likelihood that its employees would engage in improper conduct;
- (4) The location of the alleged perpetrator or perpetrators of the alleged acts when those acts transpired;
- (5) The impact of the alleged fraud on plaintiffs' ability to use its customers' credit card information;
- (6) The date on which plaintiffs became aware of the breach to their computer systems;

- (7) The scope of defendant's employees' duties, including whether they were authorized by defendant or plaintiffs to access plaintiffs' customers' credit card information for any purpose;
- (8) And the status of the credit card companies' investigations into plaintiffs' stores, including the likelihood of future fines or judgments.

SO ORDERED.



Jack B. Weinstein
Senior United States District Judge

Date: September 21, 2010
Brooklyn, New York